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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VICTORIANO TAVAREZ, Individually, and On
Behalf of All Others Similarly Situated,

Plaintiff,

-against-

RB HEALTH (US) LLC,

Defendant.

1:22-cv-00259-MKV

ORDER OF DISMISSAL

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff initiated this action by filing a complaint on January 11, 2022. [ECF No. 1]. An affidavit of service of summons and complaint was filed on the docket on March 9, 2022. [ECF No. 5]. According to that summons, Defendant's response to the complaint was due March 11, 2022. [ECF No. 5].

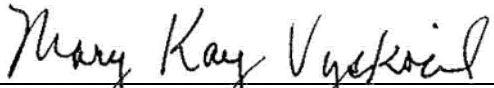
After Defendant failed to timely answer or otherwise respond to the Complaint, the Court ordered that any motion for entry of a default judgment be filed by May 12, 2022. [ECF No. 6]. Plaintiff was admonished that "[f]ailure to move for a default judgment by May 12, 2022 may result in dismissal of this action for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure." [ECF No. 6]. Upon Plaintiff's request, the deadline for any motion for entry of a default judgment was extended to June 12, 2022. [ECF No. 8].

To date, no responses have been filed and Plaintiff has not prosecuted this case. Accordingly, IT IS HEREBY ORDERED that the above-captioned action is discontinued for failure to prosecute without costs to any party and without prejudice to restoring the action to this Court's calendar if the application to restore the action is made by July 14, 2022. If no such application is made by that date, today's dismissal of the action is with prejudice. *See LeSane v.*

Hall's Sec. Analyst, Inc., 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

SO ORDERED.

Date: June 14, 2022
New York, NY



MARY KAY VYSKOCIL
United States District Judge